

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

JOHN STEVENSON LEWIS,)	Civ. 11-4059-KES
)	
Petitioner,)	
)	
vs.)	
)	ORDER DENYING MOTION
DARIN YOUNG, Warden, and)	TO RECONSIDER
MARTY JACKLEY, Attorney)	
General, State of South Dakota,)	
)	
Respondents.)	

Petitioner, John Stevenson Lewis, moves this court to reconsider its prior order denying his request for appointed counsel, an evidentiary hearing, relief on his writ of habeas corpus, and remand to state court for new trial or immediate release. Lewis raises no new issues that were not already considered by this court when it denied the petition for writ of habeas corpus on September 18, 2013. Additionally, Lewis has filed a notice of appeal with the Eighth Circuit Court of Appeals and this matter is pending on appeal. “[A] federal district court and a federal court of appeals should not attempt to assert jurisdiction over a case simultaneously.” *United States v. Arrellano-Garcia*, 471 F.3d 897, 901 (8th Cir. 2006) (quoting *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)). “Generally, ‘the filing of a notice of appeal . . . confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the

appeal.’ ” *Ahlberg v. Chrysler Corp.*, 481 F.3d 630, 638 (8th Cir. 2007) (holding that magistrate judge did not have jurisdiction to enter costs after notice of appeal was filed on previous costs order) (citation omitted). As a result, it is

ORDERED that Lewis’s motion to reconsider (Docket 26) is denied.

Dated November 6, 2013.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE